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No. (1)

Supreme Court U.S.
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In The
Supreme Court of the United States

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DULAL KANTI GANGULY,

*Petitioner,*

v.

SWISS AMERICAN SECURITIES, INC.;
CREDIT SUISSE GROUP/PRIVATE BANKING, INC.;
CREDIT SUISSE GROUPE/PRIVATE BANKING, INC.,

*Respondents.*

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ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

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# PETITION FOR WRIT OF CERTIORARI WITH APPENDIX

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## Questions Presented

1. Whether it was not a deliberate fraudulent conduct on the part of Credit Suisse Internet Broker and Banker to open an illegal account for me on the September 30, 1999 and order the transfer of my bank account by Bank Lau in Zurich in Switzerland?

2. Was it not wrong to fill in a youtrade application form filled in by youtrade typist for the transfer of my portfolio from Bank Lau to youtrade and was it not a security fraud and violation of SEC's Rule No. 17 of the 1933 and 1934 Act and § 10 and 10(b) and Rule 10b-5 of the 1934 Act?

## List of Parties to the Proceeding

The parties to this proceeding are set forth in the Caption on the cover.

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## Petition for Writ of Certiorari

Petitioner Dulal Kanti Ganguly hereby respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Second Circuit in New York, Docket No. 05-4351-cv (Ganguly v. Swiss American Securities Inc. and Credit Suisse Private Banking).

## Citation to Opinions Below

The 2nd Circuit Court of Appeals Summary Order is unpublished and attached as App. 1a, entered July 20, 2007. The U.S. District Court for the Southern District of New York Order of Dismissal is attached as App. 8a, entered March 23, 2005.

## Jurisdiction and Venue

The 2nd Circuit Court of appeals Summary Order is unpublished and attached as App. 1a, entered July 20, 2007. The issue of Jurisdiction is based on diversity of Nationality pursuant to 28 U.S.C. § 1332 as justified by District Magistrate Judge Honorable Ms. Luis Bloom (App. 5a). Jurisdiction of the Supreme Court is invoked pursuant to 28 U.S.C. § 1254(1).

## Statutes and Constitutional Provisions

The Elder Justice Act 42 U.S.C. § 3010, *See* HR 4993 § 2201 which has been added to the Social Security Law to protect elderly. The Statute of my

claim is based on the U.S. Constitution amendment VII:

Annotation:

> In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

**Statement of the Case**

The Federal District Court for The Southern District Of New York had overlooked the fact that Credit Suisse youtrade account was an illegal act deliberately foiled and executed by the Credit Suisse Group as exhibited in their letter of October 3, 2002 mailed to my address in the Netherlands. Enclosed is the copy of this letter in both German and English languages. (App. 20a). This is a Banking Fraud which is against the SEC Act § 10(b) a criminal conduct. This is also against the Elder Justice Act 42 U.S.C. § 3010; H.R. 4993 § 2201. The Credit Suisse youtrade had opened the undisclosed youtrade account for me on September 30, 1999 and had ordered my Bank Assets with Bank Lau in Zurich to be transferred to their illegally opened Bank Account amounting to deliberate bank Fraud in violation of SEC § 10(b). Me and my German wife's hard earned savings of forty-five years was meant to supplement my very low Dutch Pension

Benefits. This criminal conduct of the authorities is based of racial atrocities as it had been the Dogma of Colonialists. U.S. is a Pluralistic Constitutional Democracy governed by the rule of law. I therefore request the honourable Clerk and the Honorable Panel of Judges to deny defendants criminal confiscation of our hard earned Pension Savings and impose severe punitive fine on the Defendants. My final asset value in July 2000 was over one Million Dollars, who the Defendants had demanded was the minimum to set up and run a Credit Suisse Pension Trust. I and my German wife had trusted the advice of their investment advisors without realizing that we were foiled into a fraud scheme of the Credit Suisse Group.

**Reasons for Granting the Writ**

My claim is based on common law principles of liability for fraaudulant and deceitful conduct; and on the Alien Tort Claim Act, 28 U.S.C. § 1350, which grants U.S. Courts jurisdiction over certain violations of International Law, regardless of where they occur and also based on recent Elder Justice Act 42 U.S.C § 3010, H.R. 4993 § 2201 which has been added to the Social Security Law to protect Elderly from abuse, neglect and financial exploitation through fraudulent conduct and misrepresentation propelled by human greed in Bankers and Brokers. I am a person holding U.S. Green Card got through my mother who is a permanent resident of U.S.A. and nearly all of my brother and sisters are of U.S. Nationality for which reason I wanted to set up a Pension Trust in the U.S.A. Enclosed please find the two pages of the verdict given by the U.S. District Court Eastern District of New York,

regarding the issue of jurisdiction given by the United State Magistrate Judge, Ms. Luis Bloom on August 05, 2004 (App. 5a). I took civil action against Defendents for setting up of an illegal youtrade Internet Bank Account and for this injust and unlawful conduct. (App. 24a). Opening a Swiss Internet youtrade account for me in Switzerland as a citizen and permanent resident of The Netherlands was an act of Felony as this act had caused abuse, neglect and financial exploitation of my Pension Savings of 45 years of hard work. The "youtrade" account was set up on the September 18, 1999. I had my Bank assets with the Bank Lau A.G. with account No. 0065-883664 which was not an Inter Net Banking Account. Through this account I could pay Doctors bills and Diabetes specialists bills and Hotels. This money saved from my job as a Management Executive to pay from my account for over seas treatment of Retinopathy as I was then suffering from severe Diabetes Complication. Bank Lau was knowledgable about the fact that in my country of origin, India we are educated in English so our medium of communication is English, and nobody communicates in German language. Credit Suisse advisors contacted me repeatedly and told me I was paying very high Bank commission to the Bank Lau and they have a cheaper and better alternative in their BANK to do banking through their Inter Net platform called "youtrade". In fact youtrade was 100% owned by Credit Suisse but charges about 30% of the commission charged by Bank Lau. Youtrade was created by the Credit Suisse Bank to provide Brokerage and Banking services to solely to their Domestic Swiss customers in their Domestic German language. The Bank Staff members did not disclose this fact at the time of setting up the illegal youtrade Bank account. Only after the transfer of my

assets from the Bank Lau, I found out that the documents sent to me were in German language and were not original copies but photocopies of some fake internal Bank transactions. This change of language from English to German medium Documents creation got them equipped for fraud and deceitful conduct to expropreate my hard earned Pension Savings. In their Account Opening Form of youtrade it is written in their German language that I cannot withdraw any cash money from my youtrade account like I was able to do in a normal bank like Bank Lau. So, once I had transferred my assets from Bank Lau to Credit Suisses I was totally in their hand. Their argument was my securities were all of U.S. Shares and Certificates therefore they are with the Swiss American Securities Inc. in New York. Then it became clear that I became a victim of Banking Fraud and my dream of Pension Trust was blown in the wind. But, I was told that Swiss American Securities Inc. will need at least one Million Dollar in my account to install the Pension Trust as please see the English translation of the fake documents in their German language. In July and August of 2000 the account value rose above the one Million Dollar but their was no response from the Credit Suisse Banking Group as they told me that the person responsible for my account was in Summer holiday, so I shall have to wait till this bank advisor return from holidays and get involved with the formalities of the Pension Trust. The Bank did not disclose the fact that they had opened an illegal account for me on the September 18, 1999 for which reason they cannot set up a Pension Trust for me. Only after my bank account got decimated due to the severe correction in Wall Street, the bank wrote to me on the October 3, 2002 as followed:

> For legal reasons, youtrade, being the online broker of CREDIT SUISSE, is not allowed to enter or to conduct business relationship with customers who are residents of the Netherlands. (App. 20a)

The account opening from September 18, 1999 filled in by the bank Staff member from my Netherlands Passport show that the Credit Suisse Bank was aware of this fact that I live in the Netherlands and I hold the Netherlands nationality. This proves that the Credit Suisse Bank Group was aware of the fact that I am non resident of Switzerland so I can not have a youtrade account. As an Elderly petitioner, I request your High Office to demonstrate the power of the rule of law to discipline the boundless greed of Brokers and Bankers to abuse neglect and financially exploit Elderly of foreign origin and Culture. Thanking you in advance.

Yours Most Truly,

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